

**Village of Indian Head Park  
201 Acacia Drive  
Indian Head Park, IL 60525**

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**MINUTES  
VILLAGE OF INDIAN HEAD PARK  
PLANNING AND ZONING COMMISSION  
PUBLIC HEARING**

*“Pursuant to 5 ILCS 120/2.06 (3) minutes of public meetings shall include, but need not be limited to: a general description of all matters proposed, discussed, or decided, and a record of votes taken.”*

**Tuesday, August 5, 2008**

**7:30 P.M.**

**I. CALL TO ORDER -COMMISSIONER NOREEN COSTELLOE, CHAIRPERSON**

A public hearing was hosted by the Village of Indian Head Park Planning and Zoning Commission on Tuesday, August 5, 2008, at the Municipal Facility, 201 Acacia Drive to consider Petition #170 for a terms and conditions hearing as it relates to a safety fence to be installed in connection with the reconstruction of an in-ground swimming pool at 6358 Blackhawk Trail. The meeting was convened and called to order at 7:30 p.m. by Commissioner Noreen Costelloe. Kathy Leach, Zoning Commission Secretary, called the roll as follows:

**II. ROLL CALL: PRESENT (AND CONSTITUTING A QUORUM):**

Commissioner Noreen Costelloe  
Commissioner Diane Andrews  
Commissioner Denise Ingram  
Commissioner Mike Lopez  
Commissioner Earl O'Malley  
Commissioner Jack Yelnick

**NOT PRESENT:**

Chairman Dennis Schermerhorn

**ALSO PRESENT:**

Debbie Anselmo, Zoning Trustee  
Carol Coleman, Zoning Trustee

**III. PLEDGE OF ALLEGIANCE TO THE FLAG**

Commissioner Noreen Costelloe and the Planning and Zoning Commission members led the audience in reciting the Pledge of Allegiance to the Flag as follows: *“I Pledge Allegiance to the Flag of the United States of America and to the republic for which it stands, one nation under God indivisible with liberty and justice for all”.*

**QUESTIONS AND/OR COMMENTS FROM INDIAN HEAD PARK RESIDENTS/PROPERTY OWNERS IN ATTENDANCE REGARDING ZONING AGENDA ITEMS**

None

**IV. PUBLIC HEARING HELD BEFORE THE VILLAGE OF INDIAN HEAD PARK PLANNING AND ZONING COMMISSION (PUBLIC COMMENTS RECEIVED AFTER DISCUSSIONS BY THE PLANNING AND ZONING COMMISSION MEMBERS AND PRIOR TO VOTES)**

**ZONING AGENDA ITEM:**

**1. Petition #170 – A Petition for a Terms and Conditions Hearing to Allow for a Safety Fence in Connection with the Reconstruction of an In-Ground Swimming Pool at 6358 Blackhawk Trail, Indian Head Park.**

Commissioner Noreen Costelloe noted that a zoning petition application was filed with the Village by All Seasons Pools and Spas on behalf of Mr. & Mrs. James McMahon, the property owners of 6358 Blackhawk Trail. The following exhibits were presented and reviewed by the Commission concerning this zoning petition: (1) a zoning petition form dated July 16, 2008 signed by Chris Thomas, of All Seasons Pools and Spas requesting a terms and conditions hearing to allow for a safety fence for an in-ground pool at 6358 Blackhawk Trail; (2) a Certificate of Publication notice in the Suburban Life Newspaper on Saturday, July 19, 2008; (3) a copy of the letter that was sent to adjacent property owners dated July 17, 2008; (4) a list of adjacent property owners within two hundred fifty-feet (250') of the subject property; (5) a memo to public works regarding posting of the zoning sign; (6) a preliminary building and zoning code plan review report prepared by the Village's plan review consultant; (7) a project summary and proposed plans provided by All Season Pools and Spas; (8) **Section 15.21, Swimming Pools** of the Village of Indian Head Park Municipal Code.

Commissioner Costelloe noted that there were no letters received by the Commission either in favor of or opposed to the petition presented to the Commission.

Mrs. McMahon stated that a preliminary plan is being presented for an in-ground pool to be reconstructed as well as a fence to be installed in connection with a new pool at 6358 Blackhawk Trail. Commissioner Costelloe noted that the Commission reviewed Title 17, Zoning as it relates to safety fences and also **Section 15.21, Swimming Pools** of the Building Code section of the Municipal Code that was provided to the Commission for reference purposes.

Commissioner Costelloe further stated that one of the duties of the Commission is to hear, decide and provide a recommendation to the Board with regard to variations from the terms provided in ***Title 17, Zoning***, in a manner and subject to standards set forth in this section. She noted that the purpose of the hearing is only to review and consider terms and conditions for a safety fence. Commissioner Costelloe stated that ***Title 15, Swimming Pools, Section 15.21.060 (DI)*** of the Municipal Code also sets forth specific requirements for safety fences to be installed around in-ground swimming pools which states in part: *(1) all pools shall be completely enclosed by a fence erected along the periphery of the pool walk or terrace area. All fence openings or points of entry into the pool area enclosure shall be equipped with gates. Fence and gates shall be a minimum number nine gauge woven wire mesh or other non-corrosion resistant material approved by the building inspector. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate and made inaccessible to small children; (2) in no case shall the required safety fence for a single-family residence be located more than twelve-feet (12') from the pool wall.* Commissioner Costelloe pointed out that the Planning and Zoning Commission does not have jurisdiction to consider or grant variations from ***Title 15, Building and Construction***, of the Municipal Code. She noted that the Commission can only consider variations from ***Title 17, Zoning***.

Commissioner Costelloe stated that the proposed location of the new in-ground pool is shown to be placed within the required rear yard setback of the property and the pool is a permitted obstruction within a required rear yard. She noted that the proposed pool is shown to be fully enclosed by a five-foot (5') high fence having self-closing and self-latching gates and the proposed plan depicts a portion of the required pool surround barrier to be the exterior wall of the residence. Commissioner Costelloe pointed out that the current plan does not meet the requirements set forth in ***Title 15, Section 15.21.060 (DI)*** and the Commission does not have jurisdiction to consider variations from this title but only to consider variations from ***Title 17, Zoning***. Commissioner Costelloe stated that possibly a plan could be designed by All Season Pools and Spas to meet the code requirements with that plan to be submitted to the Village for building code review. Mrs. McMahon stated that the current plan for the pool and fence was designed to work with the existing patio area and pool configuration as well as the existing landscaping in the rear yard. Commissioner O'Malley stated that the current plan for the safety fence does not meet the requirements of the building code because the proposed safety fence does not completely enclose the pool along the periphery of the pool walk or terrace area. Commissioner O'Malley stated that he visited the property to observe the existing conditions as it relates to the proposed new pool and fence. He noted by utilizing the back of the house as a side to enclose the pool area would allow a child direct access to the pool from the rear entrance of the home and it may not be a safe situation. Commissioner O'Malley stated that possibly the requirement in the code with regard to safety fences completely enclosing pools was drafted to provide a measure of safety.

Commissioner Costelloe noted that the Planning and Zoning Commission cannot consider a variation from the requirements of ***Title 15, Section 15.21.060 (D1.2)*** of the Municipal Code that states the fence must be no more than twelve-feet (12') from the pool area. Commissioner Lopez inquired if the only issue with the proposed plan before the Commission is to consider the terms and conditions as it relates to the safety fence. Commissioner Costelloe noted that the Commission will only provide a recommendation to the Village Board with regard to the safety fence, the Board will consider the matter and the proposed plans must also be reviewed for building and zoning code requirements before a building permit can be granted. Commissioner Costelloe pointed out that the Zoning Board is strictly an advisory Board that makes recommendations to the Board on zoning matters only and the Village Board sets forth regulations in the Municipal Code by ordinance.

Commissioner Andrews stated that because fences are generally not permitted except for safety according to ***Title 17, Zoning***, the Commission reviews zoning petitions for a safety fence in connection with in-ground pools to insure that the fence will not impact the park-like setting of the Village by setting conditions for shrubbery or screening around safety fences. Mrs. McMahon stated that she will work with her pool contractor to design a plan for the pool and the proposed fence that meets the requirements of the building code with the new plan to be submitted to the Village for review. Commissioner Costelloe stated that sometimes pool contractors prepare a preliminary concept plan before a final plan can be completed to determine if all aspects of the plan meets various code requirements. She noted that there is a substantial amount of room in the rear yard of the property to design a plan that will work. Mrs. McMahon stated that there are two stepped down terrace patio areas from the back of the house that the contractor will also need to work with to design a plan that fits the topography of the property.

Commissioner Andrews asked if a retaining wall is proposed as part of the plan for the pool and fence. A representative from All Season Pools and Spas stated that a retaining wall will most likely be designed on the final plans once a determination has been made as to whether the entire plan meets all other requirements of applicable codes.

Commissioner Noreen Costelloe and the Commission members reviewed the following Findings of Fact with regard to the residential property at 6358 Blackhawk Trail to evaluate evidence presented in response to the following criteria before providing a recommending, as required by the Village's Zoning Ordinance, ***Title 17 Zoning, Section 17.23.060E***: (1) that the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located (not applicable -- this reference pertains only to commercial properties); (2) the plight of the owner is due to unusual circumstances (all commissioners agree); (3) the variation, if granted, will not alter the essential character of the locality (all commissioners agree); (4) the particular physical surroundings,

shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out (all commissioners agree); (5) the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning classification (all commissioners agree); (6) the purpose of the variation is not based upon a desire to make money out of the property (all commissioners agree); (7) the alleged difficulty or hardship has not been created by any person presently having an interest in the property (all commissioners agree); (8) the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located (all commissioners agree); (9) the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood (all commissioners agree).

Commissioner O'Malley moved, seconded by Commissioner Yelnick, to accept the findings of fact with regard to the zoning matter before the Planning and Zoning Commission this evening. Motion carried by unanimous roll call vote (6/0/0).

*Aye: Commissioners: Andrews, Costelloe, Ingram, Lopez, O'Malley, Yelnick*

*Nay: None*

*Absent: Chairman Schermerhorn*

Commissioner Costelloe entertained a motion to submit a recommendation to the Village Board with regard to this zoning matter.

Commissioner Andrews moved, seconded by Commissioner Ingram, to submit a recommendation to the Village Board setting forth terms and conditions for a safety fence in connection with the reconstruction of an in-ground swimming pool at 6358 Blackhawk Trail as follows: (1) that the safety fence will be constructed according to applicable building code requirements as well as statutory requirements and shall not be located more than twelve-feet (12') from the pool wall (2) existing shrubbery and screening to be maintained; (3) that the pool equipment pad be placed in the rear yard (4) the height of the fence must be a minimum of four-feet six inches with self-latching and self closing devices placed at the top of the gate and; (4) the existing perimeter fence must be removed. Carried by unanimous roll call vote (6/0/0).

A representative of All Season Pools and Spas inquired if a safety fence is permitted to be installed on top of a portion of the retaining wall. The Planning and Zoning Commission recommended that the proposed plan be submitted to the building department for review and approval.

*PZC Minutes*  
*August 5, 2008*

*Aye: Commissioners: Andrews, Costelloe, Ingram, Lopez, O'Malley, Yelnick*  
*Nay: None*  
*Absent: Chairman Schermerhorn*

**REVIEW AND APPROVAL OF PLANNING AND ZONING COMMISSION  
MEETING MINUTES (DISCUSSION AND A POSSIBLE VOTE MAY TAKE  
PLACE)**

**★ *Minutes of the Planning and Zoning Commission Meeting held June 3, 2008***

Upon review of the minutes presented from the meeting held on Tuesday, June 3, 2008, Commissioner Yelnick moved, seconded by Commissioner O'Malley, to approve the June 3, 2008 meeting minutes, as presented. Carried by unanimous voice vote (6/0/0).

**VI. ADJOURNMENT**

There being no further business to discuss before the Commission, Commissioner Costelloe entertained a motion to adjourn the meeting. Commissioner Andrews moved, seconded by Commissioner Yelnick, to adjourn the meeting at 8:15 p.m. Carried by unanimous voice vote (6/0/0).

Respectfully Submitted,  
Kathy Leach, Recording Secretary  
Planning and Zoning Commission